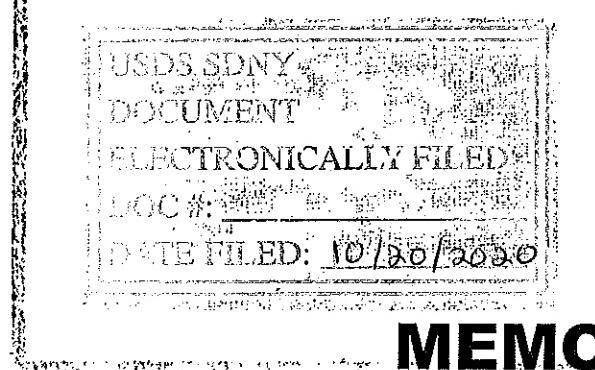


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MEMO ENDORSED

By ECF

Honorable Lewis A. Kaplan
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

September 21, 2020

Re: *In re Customs and Tax Administration of the Kingdom of Denmark (Skatteforvaltningen) Tax Refund Scheme Litigation, 18-md-2865 (LAK)*

Dear Judge Kaplan:

Plaintiff Skatteforvaltningen (“SKAT”) respectfully submits this letter motion, pursuant to Federal Rule of Civil Procedure 37, to compel third-party defendant ED&F Man Capital Markets Limited (“ED&F”) to consent to SKAT obtaining documents, via Letter of Request, from BNP Paribas S.A. (“BNP”), one of ED&F’s sub-custodians through which it purportedly held Danish shares.

This motion relates to 31 actions in this MDL involving defendants that used ED&F as a purported custodian of Danish shares.¹ In September 2019, ED&F admitted in an amended pleading that 89 of the 389 tax vouchers it issued to defendants in these 31 actions were false and collectively overstated the amount of withholding tax the defendants purportedly suffered by DKK 184,214,519.² This motion seeks to compel ED&F to take all steps necessary for SKAT to obtain documents directly from BNP that will evidence the amount of shares of Danish stock that BNP in fact held on behalf of ED&F and the defendant pension plans. ED&F has refused to produce these documents to SKAT or cooperate in SKAT’s efforts to obtain them directly from BNP, including now by threatening to invoke French professional secrecy law to prevent BNP from producing the documents to SKAT in response to any Letter of Request that this Court issues.

1. This motion relates to: 18-cv-05053; 18-cv-05374; 18-cv-08655; 18-cv-09797; 18-cv-09836; 18-cv-09837; 18-cv-09838; 18-cv-09839; 18-cv-09840; 18-cv-09841; 18-cv-10100; 18-cv-09549; 18-cv-09515; 18-cv-09511; 18-cv-09498; 18-cv-09507; 18-cv-09497; 18-cv-09489; 18-cv-09491; 18-cv-09439; 18-cv-09552; 18-cv-09434; 18-cv-09505; 18-cv-09494; 18-cv-09492; 18-cv-09490; 18-cv-10088; 18-cv-10090; 18-cv-10127; 18-cv-04894; 18-cv-10130.
2. See Letter Addressed to Judge Lewis A. Kaplan from Brian S. Fraser, Ex. A ¶ 4.2, *In re SKAT* (No. 18-md-02865), ECF No. 202. In its prior December 2018 pleading in the English action, ED&F asserted, under penalty of contempt of court, that its tax vouchers were accurate, with the exception of nine that overstated the amount purportedly withheld by DKK 312,120.

Denied
SO ORDERED
Lewis A. Kaplan
LEWIS A. KAPLAN, USDJ
10/20/2020